Evans Town Board

At a Special Meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola New York there were:

PRESENT:	Michael Schraft	Councilman
	Jeanne Macko	Councilman
	Mary Hosler	Supervisor
ALSO PRESENT:	Lynn Krajacic	Town Clerk
	Jennifer Farrell	Town Attorney
	Brittany Gloss	Director of Finance
	Ed Michalski	Highway Superintendent
	Mary Holl	Supervisor's Secretary

RESOLUTION 2018 #316 Approve Fireworks Application

Supervisor Hosler moved and Councilman Schraft seconded,

WHEREAS, an application for a fireworks license for 2018 has been received; and

WHEREAS, in light of the scheduling of Town Board meetings for the calendar year 2018 has been set at the organizational meeting; and

WHEREAS, an application for the display of fireworks on July 4, 2018, no rain date, from 7:00pm and 11:00pm, has been filed by Matt Shaw for the display of fireworks for owner Frank Campofelice located at 8686 Lake Shore Road, Angola, New York.

WHEREAS, the application was received in a fashion and a time which did not allow consideration of such application at a regularly scheduled Town Board meeting; and

WHEREAS, the application but for its timeliness appeared to be in order;

NOW THEREFORE BE IT RESOLVED, that the granting of such fireworks license is hereby approved to allow the display of fireworks as specified in said application; and

BE IT FURTHER RESOLVED, that this action is not intended to, and does not, establish a pattern so as to obviate strict compliance with the Code of the Town regarding such license but is solely an action, within the discretion of the Town Board, to address unusual and unique situations and to allow a display in honor of the Independence of the United States of America.

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Macko	Aye
	Councilman Schraft	Aye
	Supervisor Hosler	Aye

RESOLUTION 2018 #317 Waiver of Community Events Parking Fee

Councilman Schraft moved and Councilman Macko seconded,

WHEREAS the Town of Evans Community Events Committee hosts various free events throughout the Town for the enjoyment of its residents.

BE IT RESOLVED all parking fees assessed by the Town of Evans shall be waived for Town of Evans residents to attend such events with proper proof of residency.

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Macko	Aye
	Councilman Schraft	Aye
	Supervisor Hosler	Aye

RESOLUTION 2018 #318 FMLA Policy & Procedures

Supervisor Hosler moved and Councilman Schraft seconded,

WHEREAS, the Federal and Medical Leave Act ("FMLA") applies to all public agencies and stipulates specific regulations with which the Town must adhere to; and

WHEREAS, the Town has established an FMLA policy;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Evans hereby adopts the following attached FMLA policy and procedures

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Macko	Aye
	Councilman Schraft	Aye
	Supervisor Hosler	Aye

RESOLUTION 2018 #319 Part Time Seasonal Appointment

Councilman Macko moved and Supervisor Hosler seconded,

BE IT RESOLVED, that the following part time lifeguard is hereby appointed, effective immediately, for the year 2018, with the respective rate as follows:

Lifeguard(s) 2018

Jillian DeMaria	$11.50

VOTE RESULT: ADOPTED BY ROLL CALL

Councilman Macko	Aye
Councilman Schraft	Aye
Supervisor Hosler	Aye

RESOLUTION 2018 #320 Angola Public Library Agreement

Councilman Schraft moved and Councilman Macko seconded,

WHEREAS, the Angola Public Library provides a valuable service to the residents of the Town of Evans; and

WHEREAS, to help defray costs of the same, the Angola Public Library has sought and the Town in consideration of such continued service, is willing to contribute the sum of $2,250.00 towards the operational costs incurred by the Library for 2018.

NOW, THEREFORE, BE IT RESOLVED, that the Town shall contribute the amount of $2,250.00 to the Angola Public Library for 2018 and that the Supervisor of the Town of Evans is authorized to execute an agreement with the Angola Public Library, upon the approval of the Town Attorney.

FURTHER, BE IT RESOLVED, that per mutual consent of the parties (Village of Angola, Angola Public Library and the Town of Evans), the Town will pay the sum of $2,250.00 for 2018, directly to the Village of Angola.

VOTE RESULT: ADOPTED BY ROLL CALL

Councilman Macko	Aye
Councilman Schraft	Aye
Supervisor Hosler	Aye

RESOLUTION 2018 #321 Part-Time Seasonal Code Enforcement Officer

Supervisor Hosler moved and Councilman Macko seconded,

WHEREAS, there is a vacancy for a part-time code enforcement officer due to the resignation of Vincent Gugliuzza on Tuesday, June 5, 2018:

BE IT RESOLVED, that David Heckman is hereby appointed as part-time seasonal Code Enforcement Officer, effective immediately, at a rate of $15.00 per hour, payable bi-weekly.

VOTE RESULT: ADOPTED BY ROLL CALL

Councilman Macko	Aye
Councilman Schraft	Aye
Supervisor Hosler	Aye

RESOLUTION 2018 #322 Boat Slip Fees

Councilman Schraft moved and Councilman Macko seconded,

WHEREAS, Sturgeon Point Marina in the Town of Evans is open from approximately May 15th to October 15th each year; and
WHEREAS, the Town Board set rates for various items at the Sturgeon Point Marina for 2018 (i.e. boat slip fees, etc.); and

WHEREAS, from time to time boat slips are available for rental after the season commences;

NOW, THEREFORE, BE IT RESOLVED, so long as full payment of the appropriate fee is paid at the time of application along with submission of all required documents, that rental fees for 18' and 20' boat slips after June 30th shall be as follows:

18ft - July 1st - October 15th - $490.00
July 15th - October 15th - $420.00

20ft - July 1st - October 15th - $532.00
July 15th - October 15th - $456.00

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Macko	Aye
	Councilman Schraft	Aye
	Supervisor Hosler	Aye

RESOLUTION 2018 #323 Approve Fireworks Application

Supervisor Hosler moved and Councilman Macko seconded,

WHEREAS, an application for a fireworks license for 2018 has been received; and

WHEREAS, in light of the scheduling of Town Board meetings for the calendar year 2018 has been set at the organizational meeting; and

WHEREAS, an application for the display of fireworks on June 30, 2018, no rain date, from 9:30pm and 10:30pm, has been filed by Matt Shaw for the display of fireworks for David Morris for the event to take place at 8934 Lake Shore Road, Angola, New York.

WHEREAS, the application was received in a fashion and a time which did not allow consideration of such application at a regularly scheduled Town Board meeting; and

WHEREAS, the application but for its timeliness appeared to be in order;

NOW THEREFORE BE IT RESOLVED, that the granting of such fireworks license is hereby approved, to allow the display of fireworks as specified in said application; and

BE IT FURTHER RESOLVED, that this action is not intended to, and does not, establish a pattern so as to obviate strict compliance with the Code of the Town regarding such license but is solely an action, within the discretion of the Town Board, to address unusual and unique situations and to allow a display in honor of the Independence of the United States of America.

VOTE RESULT: ADOPTED BY ROLL CALL

Councilman Macko	Aye
Councilman Schraft	Aye
Supervisor Hosler	Aye

RESOLUTION 2018 #324 Audit of Bills

Councilman Macko moved and seconded Supervisor Hosler seconded that all properly audited bills be paid out of their respective accounts per abstract.

DATE	6/28/2018
ABSTRACT NO.	12A
VOUCHER NO.	2905 - 2942
CHECK NUMBERS	78064 - 78095
APPROVED AT	Board Meeting
DATE	6/27/2018
GENERAL	$49,860.86
PART TOWN	$45,663.61
HIGHWAY DB	$192.00
WATER	
CAPITAL PROJECTS	$259,528.50
SPECIAL DISTRICTS	$9,360.90
DEBT SERVICE	
TA FUND	
TOTAL	**$364,605.87**

VOTE RESULT: ADOPTED BY ROLL CALL

Councilman Macko	Aye
Councilman Schraft	Aye
Supervisor Hosler	Aye

RESOLUTION 2018 #325 Adjournment

Supervisor Hosler moved and Councilman Schraft seconded to adjourn

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Macko	Aye
	Councilman Schraft	Aye
	Supervisor Hosler	Aye

Open Meetings Law, Public Officers Law, Article 7, §106. Minutes.
Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

These minutes are an unofficial copy unless the original signature of the Town Clerk is affixed below. The original official paper minutes are stored in the Town's vault.

Respectfully Submitted,

Lynn M. Krajacic, RMC
Town Clerk

Town of Evans
Family and Medical Leave Act (FMLA) Policy

Qualifying for FMLA Leave

Public Agencies are covered employers under the FMLA. The Town of Evans ("Town") is a public agency and is therefore a covered FMLA employer. Under the FMLA, an employee who has been employed by the Town at least 12 months and has worked at least 1,250 hours for the Town during the previous 12 months may be granted unpaid leave for one or more of the following reasons:

1. Birth of a child to the employee or to the employee's spouse.
2. Placement of a child with the employee for adoption or foster care.
3. A serious health condition of the employee rendering him/her incapable of performing the functions of his or her job (see below for definitions of a "serious health condition" and "incapacity").
4. To care for a spouse, son or daughter (i.e. biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis) or parent who has a serious health condition.
5. To care for a spouse, son, daughter (i.e., biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis), parent, or next of kin who is a covered service member and who is undergoing medical treatment, recuperation, or therapy or is in outpatient status or is otherwise on the temporary disability retired list for an injury or illness incurred while on covered active duty and that may render the service member unfit to perform the duties of his or her office, grade, rank, or rating.
6. To care for a veteran undergoing treatment who was a member of the Armed Forces (including a member of the National guard or Reserves) at any time during the 5 years preceding the date they undergo medical treatment, recuperation, or therapy, for a serious injury or illness. To be covered, the injury must have been incurred in the line of duty or existed before the beginning of the member's active duty and been aggravated by service in the line of duty and manifested itself before or after the member became a veteran.
7. Qualifying exigency arising out of the fact that the employee's spouse, parent or child (i.e., biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis) is on covered active duty or has been notified of an impending call or order to covered active duty, requiring deployment to a foreign country. Qualifying exigency may include attending certain military events, short term deployment, rest and recuperation, arranging for alternative child care, addressing certain financial and legal arrangements attending certain counseling sessions, and attending post-deployment reintegration briefings. Leave may also be taken care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. As the definition of 'qualifying exigency' is lengthy and complex, please contact the Personnel Clerk regarding any questions about whether

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qualifying for leave.

A "serious health condition" shall mean an illness, injury (including a workplace injury), impairment or physical or mental condition that involved either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the job or prevents his or her qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy or due to a chronic condition.

Other conditions may also meet the definition of "continuing treatment." The definition of "serious health condition" is complex and involves many factors. Any employee that is unsure of whether a covered family member has a serious health condition should contact the Personnel Clerk for assistance.

Requesting FMLA Leave

To apply for FMLA Leave, please contact the Personnel Clerk. Employees must provide sufficient information to allow the Town to determine whether the requested leave qualifies for FMLA protection, as well as the anticipated timing and duration of the leave. Sufficient information may include a statement that the employee is unable to perform job functions due to a serious health condition, that a covered family member is unable to perform daily activities, that the employee or a covered family member require hospitalization or continuing treatment by a health care provider, or a description of circumstances supporting the need for military family leave. Employees must also inform the Town if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Employees must provide at least 30 days advance notice before the FMLA leave is anticipated to begin if the need for the leave is foreseeable. If 30 days advance is not practicable, the employee must give the Town as much notice as possible. The notice should be provided in writing, if possible, and should include the timing and the anticipated duration of the leave. The Town will respond to requests for FMLA leave within five business days.

To request unanticipated FMLA leave, the employee must adhere to the Town's normal call-in procedures.

After the request for FMLA leave is reviewed, the Town will inform the requesting employee of whether he or she is eligible under the FMLA, whether the proposed leave will be designated as FMLA-protected and the amount of leave that will be counted against his or her FMLA leave entitlement. If the employee is not eligible under the FMLA, the Town will provide the employee with a reason for the ineligibility. The employee will also be notified if the Town determines that the leave is not FMLA-protected. If the employee is eligible under the FMLA, the Town will inform the employee of his or her rights and responsibilities under the FMLA and will notify him or her of any additional information that must be provided to the Town.

12-Month Period Calculated on a "Rolling" Basis

The Town calculates FMLA leave entitlement based on a "rolling" 12 month period measured backward from the date the employee uses any FMLA leave. Under the "rolling" 12-month period, each time the employee takes FMLA leave, the remaining leave entitlement is the balance of the 12 weeks which have not been used during the immediately preceding 12 months.

FMLA Leave Runs Concurrently With Accruals

The Town requires employees to "substitute" (run concurrently) all appropriate accrued paid time off (e.g., vacation leave, sick leave, personal leave) during the FMLA leave period, as long as the policy requirements for the paid time off are met and the employee is not receiving workers' compensation benefits. If an employee is receiving workers' compensation benefits the employee is permitted to use time off to supplement his or her wages but must contact the Personnel Clerk to request that the paid time off be utilized. Additionally, employees are required to "substitute" (run concurrently) any other leaves that they may claim under a collective bargaining agreement that they are covered by.

Health Coverage

While the employee is on FMLA leave, the Town will continue the employee's health coverage under the same terms and conditions as provided while the employee was working. The employee will still be responsible for the same premiums for his or her health coverage as if he or she were at work. If the employee is on an unpaid leave of absence he or she will need to send a check to the Town for his or her portion of the premium within the first five (5) days of each month. Failure to make timely payments may result in termination of medical, dental and vision coverage, though coverage will be reinstated on the return from the leave. To the extent this policy conflicts with any benefit conferred by a collective bargaining agreement applicable to the employee requesting FMLA leave with respect to payment of health insurance while on FMLA leave that is more generous, the collective bargaining agreement will control.

Once leave is exhausted under FMLA, employees will be eligible to continue benefits under COBRA.

If the employee fails to return from the leave, or returns to work for less than thirty (30) days, in certain circumstances, the Town may recover from the employee the premiums it paid for maintaining medical, dental and vision coverage during the unpaid portion of the leave.

Intermittent Leave or Leave on a Reduced Schedule

In some circumstances, FMLA leave may be taken intermittently or on a reduced schedule. If the employee is taking intermittent leave or is on a reduced leave schedule because of his

or her own serious health condition, or the serious health condition of the employee's child, parent, or spouse, such a leave must be medically necessary.

Employees needing intermittent leave or a reduced leave schedule must attempt to schedule their leave so as not to interrupt the Town's operations. The minimum period of time for a leave is one (1.0) hour. An employee on an intermittent leave or a reduced schedule leave may be transferred to an alternate work schedule, worksite location of the Town (if applicable) or alternative position at the Town to accommodate the leave.

Limitations if Both Spouses Are Employees

If both spouses work for the Town and the leave requested is for the birth, adoption, or foster care placement of a child, the Town will not grant more than a combined total of twelve (12) workweeks of FMLA leave within a twelve (12) month period to the spouses.

Certification Requirements

Employees must provide the Town with a medical certification from a health care provider each time he or she applies for FMLA leave to care for his or her own serious health condition or that of a child, spouse or parent. The genetic information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual or family member of the individual except as specifically allowed by this law. To comply with this law, we are asking that employees not provide any genetic information when responding to this request for medical information. "Genetic information" as defined by GINA, includes tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or family member receiving assistive reproductive services. Employees are also required to provide certification when requesting FMLA qualifying exigency leave or military caregiver leave. For details and assistance, please consult with the Personnel Clerk.

After employees provide medical certification for the need for leave, the Town may request a second opinion. In this case the Town may require the employee or a covered family member to be examined by a health care provider selected by the Town, at the Town's expense. Additionally, the Town reserves the right to request periodic recertification supporting the need for leave.

The Town, in its sole and exclusive discretion, may, from time to time, require an employee on leave to furnish a report regarding the employee's status and intent to return to work for the Town. The decision of whether or not to require such a report shall be made solely by the Town.

Returning To Work

At the conclusion of FMLA leave, employees will be restored to the same job or an equivalent position with equivalent amount of pay and benefits. Previously accrued

benefits will not be forfeited; however, additional benefits will not accrue during the absence.

If an employee takes FMLA leave in connection with his or her own illness or injury, he or she must obtain a Release to Return to Work form from the attending physician prior to returning to regular duties. This form must be returned to the Personnel Clerk at the time the employee returns to work. If an employee is taking intermittent FMLA leave, a Return to Work form may not be required each time the leave is taken depending on the medical certification and nature of the leave.

If the employee is unable to return to work, or are able to return with limitations or restrictions, please include that information on the Release to Work from the physician. If possible, the release form should be sent to the Personnel Clerk five business days prior to returning to work. The Personnel Clerk, the Personnel Director, and the employee's immediate supervisor will meet to discuss potential accommodations.

Harassment Because of the Use of FMLA

FMLA makes it unlawful for an employee to:

1. Interfere with, restrain or deny the exercise of any right provided under FMLA.
2. Discharge or discriminate against any person for opposing any practice unlawful by the FMLA or because of involvement in any processing relating to FMLA.

Employees who believe they have been harassed or retaliated against as a result of taking time under the FMLA or for engaging in activity protected by the FMLA should first file an internal complaint with the Personnel Director. Employees or applicants who believe they have been harassed or retaliated against in violation of this policy may also file a complaint with the United Stated Department of Labor, or the nearest office of the Wage and Hour division. An employee may also contact a private attorney or union representative should he or she believe they have been subjected to harassment or retaliation in violation of this policy.

TOWN OF EVANS
NOTICE OF
SPECIAL TOWN BOARD Meeting

NOTICE IS HEREBY GIVEN that the Evans Town Board will hold a Special Town Board Meeting on Wednesday, June 27, 2018 at 7pm to adopt various resolutions and any other matters that may come before them.

Dated: June 21, 2018

By Order of the
Town Board
of the Town of Evans
Lynn M. Krajacic, RMC
Town Clerk